

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

USA	§	
	§	
vs.	§	NO: SA:18-CR-00722(1)-OLG
	§	
(1) ERNESTO GUTIERREZ-MARTINEZ	§	

ORDER AMENDING SCHEDULING ORDER

The matters before the court is the status of this case. In light of the current Presidentially declared national emergency due to COVID-19 and considering Chief Judge Orlando Garcia's exigent circumstances orders dated March 13, 2020 and March 16, 2020 and the Supplemental Orders Regarding Court Operations entered on April 15, 2020, May 8, 2020, June 18, 2020, July 2, 2020, August 6, 2020, September 21, 2020, October 14, 2020, November 18, 2020, December 10, 2020 and January 7, 2021 which are incorporated by reference:

www.txwd.uscourts.gov/wp-content/uploads/2020/03/Order-Re-COVID-19.pdf;

www.txwd.uscourts.gov/wp-content/uploads/2020/03/ORDER-re-Grand-Jury-Proceedings-031620.pdf;

www.txwd.uscourts.gov/wpcontent/uploads/2020/03/SupplementalOrderCOVID19-041520.pdf;

www.txwd.uscourts.gov/wp-content/uploads/2020/03/SupplementalOrderCOVID19%20050820.pdf;

www.txwd.uscourts.gov/wp-content/uploads/2020/03/SupplementalOrderCOVID061820.pdf;

www.txwd.uscourts.gov/wp-content/uploads/2020/07/SupplementOrderRegardingCourtOperationsUnderTheExigentCircumstancesCreatedByTheCovid19Pandemic.pdf;

www.txwd.uscourts.gov/wp-content/uploads/2020/03/SeventhSupplementalOrderCOVID080620.pdf;

www.txwd.uscourts.gov/wp-content/uploads/2020/03/OLGEighthSuppCOVIDOrder092120.pdf; _

www.txwd.uscourts.gov/wp-content/uploads/2020/03/NinthSuppCovidOrder101420.pdf;

www.txwd.uscourts.gov/wp-content/uploads/2020/11/OLGOrderTenthSupplementalCOVID111820.pdf;

www.txwd.uscourts.gov/wp-content/uploads/2020/12/OrderEleventhSupplementalCOVID121020.pdf;

www.txwd.uscourts.gov/wp-content/uploads/2021/01/OrdertwelfthSupplementalCOVID010721.pdf

it is hereby ordered that speedy trial be tolled in this case. In fact, considering the exigent circumstances created by the COVID-19 pandemic, the severity of the risk to those who would otherwise be required to work in close quarters absent a continuance, and the public-health matters that weigh in favor of reducing the size of public gatherings and travel, the Court finds that the best interests of the public are served by this continuance.

Further, in considering the facts and findings in the Western District of Texas' Orders Regarding Court Operations Under The Exigent Circumstances Created By the COVID-19 Pandemic, and the factors the Court listed in 18 U.S.C. § 3161(h)(7)(B), the Court finds that the ends of justice are served by continuing the proceedings and that those factors outweigh the best interests of the public and the defendant in a speedy trial.

The Court further finds that the period between *Wednesday, January 20, 2021 and Monday, March 22, 2021*, is a reasonable period of necessary delay to allow counsel time for preparation for trial and further finds that such period shall be excluded from the time within which the defendant must be brought to trial and

that the ends of justice served by taking such action outweighs the best interest of the public and the defendant in a speedy trial under the Speedy Trial Act pursuant to Title 18, United States Code, Section 3161(h)(7)(A).

This case shall proceed on the following amended schedules:

Pursuant to Federal Rules of Criminal Procedure 11(c) and the holding of the Fifth Circuit Court of Appeals in United States of America v. Ellis, 547 F.2d 863 (5th Cir. 1977), the ***deadline*** for notifying the Court of any ***plea bargain*** or ***plea agreement*** entered into by the parties in this cause is *Thursday, March 11, 2021*. The Court will not accept a plea agreement after the aforementioned deadline. Should a plea agreement be reached and filed in this case and absent written objection filed contemporaneously therewith, this case will be referred to a United States Magistrate Judge for the purpose of administering the plea of guilty and the Fed. R. Crim. P. 11 allocution, subject to final approval and the imposition of sentence by the United States District Court.

PRETRIAL MATTERS

Motions in Limine shall be filed on *Thursday, February 25, 2021*.

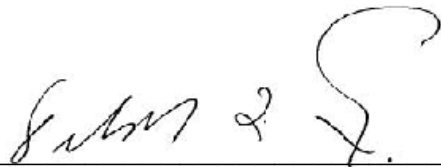
Responses to motions in limine shall be filed on *Thursday, March 11, 2021*.

Jury selection and trial are reset for *Monday, March 22, 2021 at 9:30 a.m. in Courtroom Number One, on the First Floor of the, John H. Wood, Jr. United*

States Courthouse, 655 East Cesar E. Chavez Blvd., San Antonio, Texas.

IT IS FURTHER ORDERED that the Clerk of the Court shall send a copy of this order to counsel for the defendant, the United States Attorney, the United States Pretrial Services and the United States Probation Office. ***Counsel for the defendant shall also notify the defendant of this schedule*** and advise the defendant that he must be present for all court proceedings unless excused by the Court.

Signed this 8th day of January, 2021



ORLANDO L. GARCIA
CHIEF U.S. DISTRICT JUDGE